8438976/2024/TW-LTR-I-SOW01

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Revision Petition filed by Smt. Sripuri Atchi Raju, W/o. late Nagabhushanam alias Bhushanam, Vattigadda Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District and one another against the orders of the Additional Agent to the Government Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.01/2017, dt.22.01.2022 to the land adm. Ac.13.00 Cts in R.S.No.20 and Ac.2.60 Cts in R.S.No.21/1 of Thantikonda Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District – Allowed - Orders- Issued.

TRIBAL WELFARE (LTR.I) DEPARTMENT

G.O.MS.No.7 **Dated:22.01.2024**

Read the following:

1. Revision Petition filed by Smt. Sripuri Atchi Raju, W/o. late Nagabhushanam alias Bhushanam, Vattigadda Village, Rajavommangi Mandal, Alluri Sitharamaraju District before the Hon'ble Dy.CM(TW), dated.15.03.2022 together with its enclosures.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A.No.01/2017, dated: 12.07.2023.

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ORDER:

In the reference 1st read above, Smt. Sripuri Atchi Raju, W/o. Late Nagabhushanam alias Bhushanam, Vattigadda Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District and one another against the orders of the Additionai Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.01/2017, dated.22.01.2022 to the land adm. Ac.13.00 Cts in R.S.No.20 adm. Ac.2.60 Cts in R.S.No.21/1 of Thantikonda Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District.

2. Brief facts of the Subject case :

• The 1st Revision Petitioner / Appellant was the wife and the 2nd Revision Petitioner / Appellant was the daughter of one Sripuri Nagabhushanam alias Bhushanam.

(P.T.O.)

• The 1st respondent Sri Barangi Surya Rao, S/o. Narayya of Thantikonda Village of Rajavommangi Mandal, erstwhile East Godavari District has filed a complaint before the Speciai Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District under Section 3(2)(a) of the APSALTR 1/59, as amended by regulation by 1/70 stating that an extent land Ac.13.00 Cts in R.S.No.20 and Ac.2.60 Cts in R.S.No.21/1 of Thantikonda Village, Rajavommangi Mandal, Alluri Sitharamaraju District.

• After due enquiry, the Special Deputy Collector (TW), Rampachodavaram ordered dated : 22.10.1990, L.T.R.P.No.43/1989, it is evident that, an ejectment order was passed against Smt. Sripuri Atchi Raju, W/o. late Naga Bhushanam i.e. the respondent in Lower Court and the possession of the respondent in the Petition Scheduled land was declared as and void U/s 3 of APSALTR 1950 as amended by Regulation of 1/70.

• As per the orders of the Special Deputy Collector(TW), Rampachodavaram, in L.T.R.P.No.43/1989, dated : 22.10.1990, that it was already ordered in LTRP No. 02/1988, dated. 16.08.1988 for restoration of the lands to an extent of Ac. 4.79 cts in Sy.No.21/1, 24/4, 24/5 of Thantikonda Village in favour of the petitioner.

• Aggrieved by the above orders, Smt. Sripuri Atchi Raju, W/o. late Nagabhushanam, alias Bhushanam, Vattigadda Village, Rajavommangi Mandal, erstwhiie East Godavari District and one another have filed an appeal before the Additional Agent to Government, Rampachodavaram.

• Finally, the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District has ordered in C.M.A.No.01/2017, dated.22.01.2022 under Rule 8 (1) (2) of APSALTR 1969 and LTR Regulations 1959 as amended by Act 1 of 1970, hereby uphold the orders passed by Lower Court in LTRP No. 43/1989, dated: 22.10.1990 and the appeal is dismissed.

3. Aggrieved by the above orders, Smt. Sripuri Atchi Raju, W/o. late Nagabhushanam alias Bhushanam, Vattigadda Village, Rajavommangi Mandal, Alluri Sitharamaraju District has filed a Revision petition dated: 15.03.2022 before the Government of A.P., against the orders of the Additional Agent to the Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.01/2017, dated: 22.01.2022 with a request to pass an order in their favour and against the respondent No.3 (i.e. Barangi Surya Rao, S/o.Narayya) by allowing this appeal by setting aside the order dated.22.01.2022 in C.M.A.No.01/2017 by the Additional Agent to Government, Alluri Sitharamaraju District and thereby pass a direction to the concerned to handover the possession of the lands Viz., Ac. 13.00 cents of land in R.S.No. 20 and Ac.2.60 Cents of land in R.S.No.21/1 in Thantikonda Village, Rajavommangi Mandal, Alluri Sitharamaraju District.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated: 12.07.2023 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in C.M.A.No.01/2017, dated.22.01.2022 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 28.10.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments fied by both parties counsels, the Revision Authority has observed that:

(i) This Memorandum of Revision petition is filed by Smt. Sripuri Atchi Raju, W/o. (Late) Nagabhushanam Alias Bhushanam, of Vattigadda (V), Rajavommangi (M), Alluri Sitharamaraju District and Smt. Yenugu Nagamani, W/o. Appanna Dora, Lingamparthi Village, Yeleswaram Mandal, East Godavari District being aggrieved by the orders passed by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District with regard to Petition Schedule lands admeasuring Acres: 13.00 cents of land in R.S.No.20 and Ac. 2.60 cents of land in R.S. No. 21/1 of Thantikonda village of Rajavommangi Mandal (subject lands) presently in Alluri Sitharamaraju District passed in CMA No. 01/2017, dated: 22-01-2022, dismissing the appeal by upholding the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District passed in LTRP No.43/1989, dated: 22-10-1990.

(ii) The matter came up for hearing finally before the Revision Authority on 28.10.2023. Counsel for the Revision Petitioner and the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju district and the Special Deputy Tahasildar (TW), ITDA were present. The 3rd respondent called absent in spite of receipt of notice in this matter by way of registered post with acknowledgement due and personally serving the notice through Mandal Revenue Officer, Rajavommangi has failed to attend before this Authority nor has he filed counter. Heard the parties. After perusing the material papers on the fie the following order is made.

(iii) The main contention of the Revision Petitioner is that the 3rd respondent herein Sri Barangi Suryarao, S/o. Narayya claiming himself that he belongs to Valmiki (S.T.) caste and produced a certificate alleged to have been issued by the Mandal Revenue Officer, Rajavommangi, vide reference No. 951/86, dated.11.03.1986, sought for cancelling the sale transaction in respect of the subject lands are in violation of Act 1 of 1970. The primary authority has granted

the relief prayed for. The Revision Petitioners have preferred an appeal contesting that the 3rd respondent did not belongs to ST at all and therefore the provisions of Act 1 of 1970 are not attracted in respect of the transactions of the subject lands. Thereupon, the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District has referred the said Certificate to the Tahsildar, Rajavommangi enquiring about the veracity thereof. In response thereto the Tahsildar, Rajavommangi reported that the Taluka Office never issued any Valmiki Certificate to the 3rd respondent herein and no ST Certificate was issued to Sri Barangi Surya Rao and no record is available relating to issuance of ST Caste Certificate to the individual as such his office cannot confirm his caste certificate as genuine and that the Additional Agent to Government. However, ignoring to take into account of the said reply, and further documents wherein the caste of the 3rd respondent and his paternal uncle were held to be not belonging to STs in the order dated 17-12-1974 in LTRP No.64/1974 and 17.12.1974 in LTRP No. 66/1974, and that the reports of R.D.O. Rampachodavaram, Vide Ref.E/1313/2002, dated: 26.09.2002 and that the Sub-Collectors report in Vide Ref.G/557/2012, dated: 01.02-2014 reveal that the Barangi people are Mala's, Adiaandra, Christians and that the Revision petitioners herein have further stated that the documents filed by them in the case before the Authority that is the sale deed - vide documents No.1400/1965, dated: 03.06.1965 & No. 384/1967, dated: 17-03-1967, were executed by 3rd respondent's father and his paternal uncles, herein after called as Barangi people in favour of (Late) husband of the 1st Revision petitioner namely Sripuri Nagabhushanam @ Bhushanam, are not hit by any provision of Act 1 of 1970 in as much as the Barangi people belonged to Christians and as such they are non-tribal and that the transactions held between non-tribal to non-tribal that too prior to the commencement of the said Act, confirmed the orders of the preliminary authority. The Revision Petitioner also submitted copies of the Proceedings of the Sub-Collector under Ref. No.G/557/2012, dated: 01-02-2012 where under it has been held that the birth and death extracts relating to the years 1939, 1941, 1955 i.e., prior to 1956 against (15) entries in the surnames Barangi, the caste was noted as 'MALA', "Panchamulu" clearly establish that "Barangi" surnames people belong to Scheduled Caste-Mala; and the letter of the RDO, Rampachodavaram - vide Ref. No.1313/2002, dated: 26-09-2002 holding that Barangi Narasai, R/o. Tatikonda, "Mala" caste in the year 1934 at Sl.No. 8 among others as per the Birth & Death registers, and that large number of posts in Agency areas other plain areas, state and Central Governments are exclusively reserved for STs were grabbed by the SC's by taking Valmiki caste certificates, due to recent classification in ABCD groups in SC community or to protect the lands or to purchase the lands from the tribals in Agency areas, or to save the status if he convert to Christianity and requested the District Collector to initiate action against the wrong doers in the Agency area and cancel all Bogus caste certificates protect the interests of the original innocent tribals; and the letter of Tahsildar, Rajavommangi - vide Rc.No. C/76/2023, dated: 10.07.2023 addressed the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju district stating that "after verification of Officer Birth and Death records relating to Barangi Surname, it is found that in Thantikonda village in the year 1943 two entries relating to Birth of Bullemma, D/o. Barangi Narayya and Akkamma, D/o Barangi Chellayya, the caste mentioned

MALA. In the light of all these, the Revision Petitioners have contended that the Additional Agent Additional Agent to Government has erroneously confirmed the orders of the lower authority and as such they are initiated by errors apparent on the face of the record and requested to set aside the impugned order dated: 22.01.2022 passed by the Additional Agent to Government in CMA No. 1/2017 by allowing the Revision Petition and do justice in the matter.

(iv) It is further urged that it is quite evident that the Additional Agent to Government, has failed to apply his mind while passing the impugned orders as he has failed to take note that the said judgment is not relevant to the facts of the case on hand as there is no proof of issuance of such caste certificate in the name of Barangi Suryarao and the letter addressed by the Tahsildar, Rajavommanghi Mandal clearly shows that the caste certificate produced by Barangi Suryarao was not issued by their office and no record is available in their office with regard to issuance of the same. Thus the said caste certificate produced by Barangi Suryarao is fake and fabricated pressed into service by Barangi Suryarao with a malafide intention to grab the property.

(v) In support of their case, they have also cited the following decisions of the Honourable High Courts:

(1) The Honourable High Court of Madhya Pradesh in Pappulal Meena Vs. State of Madhya Pradesh in Cr.No. 99/2017, dated: 27-06-2017 has held that "where the genuineness of caste certificate is not in dispute but the fact that whether the person belongs to a scheduled caste or scheduled tribe or not and whether the caste certificate was rightly issued or not, is in question then said matter is to be required to be referred to the high level scrutiny committee. However, in the present case the allegations are that the caste certificate was never issued in favour of the applicant and a forged caste certificate was used by the applicant as a genuine document for obtaining a service which was otherwise reserved for the candidates belonging to the scheduled caste or scheduled tribes. Thus under the facts and circumstances of the case, the submission made by the counsel for the applicant that instead of launching criminal prosecution the matter should have been referred to high level scrutiny committee cannot be accepted and hence it is rejected."

(2) In a judgment dated: 28-11-2019 rendered by Honourable Madhya Pradesh in Fakira Kachke Vs. the State of Madhya Pradesh it was held that when caste certificate was not issued by revenue authorities, it clearly shows that the said certificate is false and when a person files false caste certificate before the authority offence under section 471 of the IPC is clearly made out against such person.

(vi) The Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District has submitted para-wise remarks and contended that the caste Status of the 3rd respondent was already considered in LTRP No's. 43/1989 dated: 11-03-1986 on the basis of his caste Certificate as Valmiki -ST, issued by Mandal Revenue Officer, Rajavommangi, Alluri Sitharamaraju District and the said Certificate is valid until cancelled by the District Collector and his caste status in School TC bearing No.445157 issued by Z.P.P.High School, Zaddangi of Rajavommangi Mandal, Alluri Sitharamaraju District also show his status as valmiki ST, as such the provisions under Land Transfer Regulations 1/59 as amended by 1/70 are applicable to the facts of case and that the Tahsildar, Rajavommangi in his Rc.A/22/2021, dated: 10-02-2021 reported that the registered settlement pattadar for the lands covered by R.S.No.20 & 21/1 of Tantikonda Village is Barangi Geddappa who was grandfather of the 3rd respondent herein and that the said land was devolved upon the 3rd respondent by way of inheritance with other members of his family and that he has directed the Tahsildar, Rajavommanghi Mandal Ref: CMA 1/2017, dated: 09.05.2017 to verify the genuinely of the caste certificate produced by the 3rd Respondent Barangi Suryarao through Ref: 951/1986, dated: 11/03/1986, which seems to be issued by the Mandal Revenue officer, Rajavommangi, Alluri Sitharamaraju District as he belongs to Valmilki Community. In turn, the Tahsildar has reported that their records were not traced with regard to issuance of such certificate to the Barangi Suryarao. The applicant also filed the document which was obtained from the Tahsildar, Rajavommangi Mandal under RTI Act in which the Tahsildar, Rajavommangi has stated that on verification of the office records no ST certificate was issued to the 3rd respondent Barangi Suryarao, S/o. Narrayya of Tantikonda Village, Rajavommanghi Mandal, Alluri Sitharamaraju District it is felt that the lower court without examining the documents regarding the caste status of the appellant in the lower court i.e., Sri Barangi Suryarao, S/o. Narrayya of Tantikonda Village, passed orders in LTRP No. 43/1989, dated: 22/10/1990 requested to dispose of the matter on merits.

(vii) The background of the case coupled with rival submissions of parties together with the available record give rise to the following point for consideration:

The only question arises for consideration is whether the sale transactions referred to above are hit by the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 1970 especially when the ST certificate produced by the 3rd respondent is not found to have not been issued by the Office, from which office (Tahsildar, Rajavommangi, Alluri Sitharamaraju District), it was alleged to have been obtained by the 3rd respondent?

The Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District having not satisfied with the genuineness or otherwise of the ST Caste Certificate produced by the 3rd respondent alleged to have issued by the Tahsildar, Rajavommangi, Alluri Sitharamaraju District has referred the matter to the said Tahsildar, has replied that the said Certificate has not been issued in their

office. Having obtained a report from the Tahsildar as above, the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District failed to rely on the School certificate (T.C.) for treating the caste of the 3rd respondent, who is no other than the 2nd respondent therein. The further observation of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District about the case in LTRP No's. 02/1988 and 43/1989 where the orders were passed in favour of the 2nd respondent by the lower court and the ruling of the Honourable High Court of AP (P. Kranthi Vs. Government of AP 2000(2) ALR 622) that a caste certificate issued by a competent authority under the provisions of the Community Certificate Act has flawless finality till the same is cancelled by the District Collector, has no relevance in the present context of the fact that the vary certificate of ST pertaining to the 3rd respondent, has already been referred to the concerned issuing authority, where the said issuing authority has informed that there was no record of such certificate has been issued in favour of the 3rd respondent. This a fortiori establishes beyond any reasonable doubt that the vary ST caste certificate propounded by the 3rd respondent cannot be said to have attained any finality and no credence can be given to that certificate for conferring any rights to the 3rd respondent. Thus, the School T.C. though contains any caste becomes otiose since contents with regard to the self-particulars would be based on the self-declaration of the parent/self. Since the genuineness of Caste Certificate propounded by the 3rd respondent is not confirmed by the competent authority, and as such that certificate cannot be pressed into service for any purpose, much less for initiation of any cases invoking the provisions of Act 1 of 1970. Reliance to the pattadar pass books and settlement adangal do not confer any additional rights or overarch the position of the 3rd respondent with respect to his social status, which is at stakes.

The two citations referred to above by the Revision Petitioners squarely applies to the facts and circumstances of the present case and the 3rd respondent should have been prosecuted for submission of a fake/forged Caste Certificate as if it was issued by the Office of the Tahsildar, Rajavommangi, Alluri Sitharamaraju district. On the other hand, the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District has relied on the documents which have no relevance to the case on hand and thus, the order of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District confirming the orders of the Primary Authority is liable to be set aside.

(viii) In exercise the powers conferred under section (6) of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by Act 1 of 1970, the Revision Petition filed by the Revision Petitioners is hereby allowed duly setting aside the impugned order passed by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 01/2017, dated: 22.01.2022. Consequently, the revision petitioners are entitled to the possession of the Petition Schedule lands admeasuring Acres: 13.00 cents covered by R.S.No.20 and Ac 2.60 cents covered by R.S.No.21/1 of Thantikonda village of Rajavommangi Mandal presently in Alluri Sitharamaraju District and as a necessary corollary, the Tahsildar, Rajavommanghi Mandal, Alluri Sitharamaraju District shall take necessary further action to put the revision petitioners in possession of the lands in question.

(ix) Appropriate criminal action has to be initiated against Barangi Suryarao by the Tahsildar, Rajavommangi Mandal, Alluri Sitharamaraju District for pressing into service a false, fake/forged and fabricated caste certificate by the former.

(x) As a sequel, interim orders, if any passed in the matter are hereby vacated. Revision petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 3 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.01/2017, dated.22.01.2022 are hereby upheld and the Smt. Sripuri Atchi Raju, W/o. late Nagabhushanam alias Bhushanam, Vattigadda Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District and one another against the orders of the Additional Agent to the Govt. Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.01/2017, dated.22.01.2022 to the land adm. Ac.13.00 Cts in R.S.No.20 and Ac.2.60 Cts in R.S.No.21/1 of Thantikonda Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District is Allowed duly setting aside the impugned order passed by the Additional Agent to Government in C.M.A.No.01/2017, dated.22.01.2022 and Appropriate criminal action has to be initiated against Barangi Suryarao by the Tahsildar, Rajavommangi Mandal for pressing into service a false, fake/forged and fabricated caste certificate by the former.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT

TO
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Officer, ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Rajavommangi (M),
Alluri Sitharamaraju District.

Sri Partha Saradhi (TPS), Advocate, M.I.G-1 PLOT-84,
Sector - 3, M.V.P. Colony, Visakhapatnam, PIN-530017.
Smt. Sripuri Atchi Raju, W/o.late Nagabhushanam alias Bhushanam
Vattigadda Village,
Rajavommangi Mandal,
Alluri Sitharamarajui District.
Sri Yenugu Nagamani, W/o.Appanna Dora,
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Doctor's Colony, Pedawaltair,
Visakhapatnam District, PIN- 530017.
Sri Barangi Surya Rao, S/o. Narayya,
Tantokonda Village,
Rajavommangi Mandal,
Alluri Sitharamarajui District.

Copy to:

The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery (for Publication in the AP Gazette),
Vijayawada.
SF/SC.

// FORWARDED : : BY ORDER //

SECTION OFFICER